

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

JACK IVAN SHAW,

Plaintiff,

v.

KERRY CARSON,

Defendant.

CIVIL ACTION NO.: 4:21-cv-204

ORDER

Plaintiff filed a Motion for Substitution of Party, two Motions for Investigation, and a Motion to Deny Defendant Carson Immunity. Docs. 67, 76, 77, 78. Defendant filed Responses to three of the Motions, arguing Plaintiff does not have standing to demand a criminal investigation and Plaintiff's request to deny a qualified immunity defense is premature. Docs. 80, 81. For the reasons stated below, I **DENY** all of Plaintiff's Motions.

I. Plaintiff's Motion for Substitution of Party

Plaintiff filed a Motion for Substitution of Party, asking to preemptively appoint his son, Paul Andrew Shaw, to proceed with Plaintiff's claims in the event of his death. Doc. 67. Federal Rule of Civil Procedure 25(a) allows the parties, decedent's successor, or representative to file a motion for substitution *if a party dies* and the claim is not extinguished. The motion must be made within 90 days after service of a statement noting the death. Plaintiff's son will have the opportunity to file a motion to substitute if the need arises. Thus, I **DENY as premature** Plaintiff's Motion.

II. Plaintiff's Motions for Investigation

Plaintiff filed two Motions for Investigation. Docs. 76, 78. Plaintiff alleges Defendant Carson committed perjury at Plaintiff's bond hearings in July 2019. Id. Plaintiff asks the Court to conduct an investigation. Id. Defendant argues Plaintiff does not have standing to demand a criminal prosecution. Doc. 80.

The Court does not have authority to initiate a criminal investigation. "[T]his Court cannot compel the district attorney to commence a criminal investigation or to file criminal charges against the defendants because prosecutors, not judges, are authorized to institute criminal proceedings." Stokes v. Benefield, No. 719CV00034, 2019 WL 13516576, at *3 (M.D. Ga. June 21, 2019). Therefore, the Court **DENIES** Plaintiff's Motions.

III. Plaintiff's Motion to Deny Defendant Carson Immunity

Plaintiff filed a Motion to Deny Defendant Carson Immunity, essentially asking the Court to issue an early ruling on any qualified immunity defense Carson may raise. Doc. 77. Defendant argues Plaintiff's Motion is premature. Doc. 81. Defendant states the discovery period in this case is still pending, the dispositive motion deadline has not yet passed, and Defendant has not raised a qualified immunity defense in a motion. Id. Plaintiff only cites a previous decision from the Supreme Court of the United States without providing any argument. Plaintiff's request is premature. Defendant has not raised a qualified immunity defense at this point. Therefore, the Court **DENIES as premature** Plaintiff's Motion.

SO ORDERED, this 31st day of July, 2024.

A handwritten signature in blue ink, appearing to read 'B. Cheesbro', is written over a horizontal line.

BENJAMIN W. CHEESBRO
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA